

UNITED STATES DISTRICT COURT
Northern District of California

KNAPPS,

Plaintiff(s),

No. C 05-02935 MEJ

v.

CITY OF OAKLAND ET AL,

**ORDER REQUESTING
SUPPLEMENTAL BRIEFING**

Defendant(s).

It has come to the Court's attention that a potential issue exists as to whether Plaintiff exhausted his administrative remedies. Under California law, before suing a public entity, a plaintiff must first present a tort claim that specifies the legal and factual basis for his claim against the entity or its employees. *Maestrini v. City and County of San Francisco*, 2009 WL 814510, *8 (N.D. Cal. 2009). "Courts have consistently interpreted the Tort Claims Act to bar actions alleging matters not included in the claim filed with the public entity." *Williams v. Braslow*, 179 Cal. App. 3d 762, 767-70 (1986).

Accordingly, the Court hereby ORDERS the parties to provide supplemental briefing on this issue. By July 27, 2009, Plaintiff shall file a brief, up to three double-spaced pages in length, as to whether he exhausted his administrative remedies and, if not, whether a waiver is permitted given that Defendants failed to brief the issue and allowed the claims to proceed to trial. Defendants shall file a responsive brief, up to three double-spaced pages in length, by July 30, 2009.

IT IS SO ORDERED.

Dated: July 20, 2009



Maria-Elena Janer
Chief United States Magistrate Judge